

APPEAL NO. 030993
FILED JUNE 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing was held on March 24, 2003.

In (Docket 1), the hearing officer determined that the respondent/cross-appellant's (claimant) (date of injury for Docket No. 1), compensable injury extends to include the claimant's current diagnosis of tenosynovitis of the right wrist and that it does not extend to include his current diagnosis of right carpal tunnel syndrome (CTS). The appellant/cross-respondent (carrier 1) appealed the hearing officer's determination that the claimant's (date of injury for Docket No. 1), compensable injury includes tenosynovitis of the right wrist. The claimant responded, urging affirmance. The file does not contain a response from the respondent (carrier 2).

In (Docket 2), the hearing officer determined that the claimant did not sustain a compensable injury in the form of an occupational disease, with a date of injury of (date of injury for Docket No. 2), and that therefore he did not have disability. The claimant appealed both determinations and carrier 2 responded, urging affirmance. The file does not contain a response from carrier 1.

DECISION

Reversed and remanded.

DOCKET 1

Regarding the appeal in Docket 1, carrier 1 asserts that there was a clerical error in the stipulations portion of the hearing officer's decision and order. Stipulation 1(C) reads, "[Carrier 1] accepted as compensable bilateral tenosynovitis." We note that an Order on Motion to Correct Clerical Error was issued by the Texas Workers' Compensation Commission (Commission) on May 16, 2003, to rectify the error. Stipulation 1(C) was modified by the Commission to read, "[Carrier 1] accepted as compensable bilateral tenosynovitis **of the elbows**."

The parties stipulated that the claimant sustained a compensable injury on (date of injury for Docket No. 1), which included bilateral tenosynovitis of the elbows. The claimant testified that he last treated for his bilateral elbow injury on October 7, 1998, and that he was returned to work without restrictions. Both the claimant's testimony and the medical documentation submitted into evidence indicate that the claimant was complaining of, and concerned about, symptoms in his hands during the course of his treatment for the bilateral elbow injury. The claimant testified that he did not believe the CTS was part of the (date of injury for Docket No. 1), compensable injury.

In her Statement of the Evidence, the hearing officer wrote:

The [c]laimant was returned to work in a full duty capacity without restrictions after his injury in [Docket 1], and he was employed by several employers before working for the temporary agency in [Docket 2]. Those intervening employment positions required that he perform duties which involved heavy, manual labor. I do not see the existence by a preponderance of the evidence that the [c]laimant had [CTS] when he was treated for his bilateral tenosynovitis in [Docket 1]. Any problems that the [c]laimant has experienced with his right upper extremity were not caused by or the result of the compensable injury in [Docket 1].

The hearing officer's Findings of Fact No. 7 reads, "There is no credible, medical evidence that shows that the [c]laimant has right [CTS] or any other injury to his right wrist." In Conclusion of Law No. 4, the hearing officer states, "The compensable injury of (date of injury for Docket No. 1), extends to include the [c]laimant's current diagnosis of tenosynovitis of the right wrist." Given the clerical error in stipulation 1(C) along with the fact that the hearing officer's discussion of the evidence and Findings of Fact No. 7 are in direct conflict with Conclusion of Law No. 4 and the decision and order, we have no alternative but to remand Docket 1 back to the hearing officer for purposes of clarifying how she determined that the (date of injury for Docket No. 1), compensable injury does not extend to and include CTS, but does extend to include tenosynovitis of the right wrist. The hearing officer is directed to clarify the inconsistencies between Finding of Fact No. 7 and Conclusion of Law No. 4.

DOCKET 2

In Docket 2, the hearing officer determined that the claimant did not sustain a compensable injury in the form of an occupational disease, with a date of injury of (date of injury for Docket No. 2), and that he therefore did not have disability. In reaching her determination, the hearing officer stated:

Although the [c]laimant testified that he was taken to the emergency room of a local hospital, no record of this purported [sic] examination was in evidence.

Attached to Claimant's Exhibit No. 3 is a record from the emergency room at (Medical Center). The record indicates that the claimant was seen in the emergency room on (date of injury for Docket No. 2), and released with a diagnosis of a right hand sprain with directions to follow up with a doctor. Because it is unclear whether or not the hearing officer considered this record, Docket 2 is also remanded. On remand, the hearing officer is directed to examine the entire record as it currently exists and to issue a new decision and order regarding injury and disability.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new

decision is received from the Commission's Division of Hearings, pursuant to Section 410.202, which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods.

The true corporate name of insurance carrier 1 is **CENTRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

The true corporate name of insurance carrier 2 is **TRANSPORTATION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge